COURT NO.5
(reserved)

Civil Petition No. 1181 of 2002

Ravi Dhingra ---------- Petitioner

Versus

Judge Small Cause, Dehradun---------- Respondent

Hon'ble M.M. Ghildiyal, J.

Heard Sri Arvind Vashistha, learned counsel for the petitioner and Sri Alok Singh learned counsel who appeared for the landlord.

The petition has been field by the tenant challenging the order dated 20.11.2002 passed by the Additional District Judge/Fast Track Court II Dehradun acting as Judge Small Cause Court rejecting the application 154 Ga filed by the tenant.

The landlord filed small cause suit for eviction and recovery of arrears of rent in the year 1999. Since the suit was pending and; was not decided the matter went to the High Court and the High Court on 7.8.2002 directed the Small Cause Court to decide the suit within two months. Thereafter the tenant moved an application for amendment, which was allowed by the court below on the same day, i.e. on 7.11.2002. The tenant thereafter moved an application with a prayer to decide the issue "Whether Act no. XIII of 1972 is applicable to the disputed property?" as preliminary issue. The application of the tenant has been rejected by the Small Cause Court on 20.11.2002 holding that the issue requires evidence before it is decided. The landlord has already adduced evidence and it would be proper that the issue may be decided after both the parties have adduced evidence in respect of the disputed property.

I find no infirmity in the order of the Judge Small Cause Court. Further, the petitioner has not impleaded the landlord as a party in the petition, which is a necessary party. In view of the above, the petition is dismissed. No order as to the costs.

(M.M. Ghildiyal, J.)

December 9, 2002
MPS